



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2023-0151]

RIN 1625-AA87

Security Zone; Cooper River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone for certain waters of the Cooper River near Charleston and Mount Pleasant, South Carolina. This action is necessary to provide for the security and protection of life on these navigable waters near the Arthur Ravenel Jr. Bridge over the Cooper River during the Cooper River Bridge Run. This rulemaking would prohibit persons and vessels entering the security zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 7:30 a.m. until 10:30 a.m., on April 1, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0151 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Thomas J. Welker, Sector Charleston, Waterways Management Division, U.S. Coast Guard; telephone (843) 740-3184, email Thomas.J.Welker@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The developments and planning for official patrol of the security zone prevented sufficient the Coast Guard from taking action sooner, therefore the Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule, since this rule is needed by April 1, 2023. It would be contrary to the public interest to delay promulgating this rule, as it is necessary to protect the safety and security of participants while on the Arthur Ravenel Jr. Bridge.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because the temporary security zone must be established on April 1, 2023 to ensure safety and security of event participants.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70124. The Captain of the Port Charleston (COTP) has determined that this event requires certain waterside security measures to protect the bridge and event participants from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature.

IV. Discussion of the Rule

This rule establishes a security zone from 7:30 a.m. until 10:30 a.m. on April 1, 2023. The security zone would cover all navigable waters encompassed within the following points beginning at 32° 48' 32" N, 079° 56' 08" W, thence east to 32° 48' 20" N, 079° 54' 18" W, thence south to 32° 47' 20" N, 079° 54' 29" W, thence west to 32° 47' 20" N, 079° 55' 28" W, thence north to origin. All coordinates are 1984 World Geodetic System (WGS 84). No vessel or person will be permitted to enter, transit through, anchor in or remain within the security zone without obtaining permission from the COTP or a designated representative. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the COTP or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, this rule has not been

reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on: (1) the security zone would only be enforced for a total of three hours; (2) although persons and vessels may not enter, transit through, anchor in, or remain within the zone without authorization from the COTP or a designated representative, they would be able operate in the surrounding areas during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the areas during the enforcement period if authorized by the COTP or a designated representative; and (4) the Coast Guard will provide advance notification of the zone to the local maritime community by Broadcast Notice to Mariners, or by on-scene designated representatives.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a security zone lasting only 3 hours that will prohibit persons and vessels from entering, transiting through, anchoring in, or remaining within a limited area surrounding the Arthur Ravenel Jr. Bridge over the Cooper River. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

2. Add § 165.T07-0151 to read as follows:

§ 165.T07-0151 Security Zone; Cooper River Bridge Run, Charleston, SC

(a) *Location.* The following area is a security zone: All waters of the Cooper River, and Town Creek Reaches encompassed within the following points: beginning at 32° 48' 32" N, 079° 56' 08" W, thence east to 32° 48' 20" N, 079° 54' 18" W, thence south to 32° 47' 20" N, 079° 54' 29" W, thence west to 32° 47' 20" N, 079° 55' 28" W, thence north to origin. All coordinates are 1984 World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Charleston (COTP) in the enforcement of the security zone.

(c) *Regulations.* (1) No person or vessel will be permitted to enter, transit, anchor, or remain within the security zone described in paragraph (a) of this section unless authorized by the COTP Charleston or a designated representative. If authorization is granted, persons and/or vessels receiving such authorization must comply with the instructions of the COTP Charleston or designated representative..

(2) To seek permission to enter, contact the COTP or the COTP's representative by telephone at 843-740-7050 or via VHF radio on channel 16. Those in the security

zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. until 10:30 a.m., on April 1, 2023.

Dated: March 16, 2023.

J. D. Cole,
Captain, U.S. Coast Guard,
Captain of the Port Charleston

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